

1
2
3
4
5
6
7 NORDIC NATURALS, INC.,
8 Plaintiff,
9 v.
10 JOHN DOES 1-50, INDIVIDUALLY OR
AS CORPORATE/BUSINESS ENTITIES,
11 Defendant.

Case No. [23-cv-02606-DMR](#)

**ORDER DENYING MOTION FOR
LEAVE TO SERVE A SUBPOENA
WITHOUT PREJUDICE**

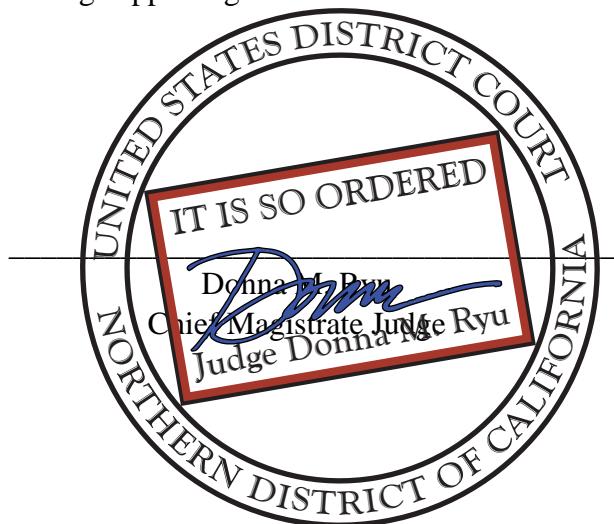
Re: Dkt. No. 6

12
13 The court has reviewed Plaintiff Nordic Naturals, Inc.’s ex parte motion for leave to serve
14 a third-party subpoena prior to the Rule 26(f) conference. [Docket No. 6.] Civil Local Rule 7-5
15 provides that “[f]actual contentions made in support of . . . any motion must be supported by an
16 affidavit or declaration and by appropriate references to the record.” Civ. L.R. 7-5(a). While
17 Plaintiff submitted a declaration attaching a copy of its proposed subpoena (Docket No. 6-2), it did
18 not submit any evidence supporting the factual contentions in its motion. For example, Plaintiff
19 contends that it took “previous steps . . . to locate the Defendants,” including “investigating” their
20 “names and identities,” but did not provide evidence of any such investigation. *See* Mot. 3. *See*
21 *Columbia Ins. Co. v. seescandy.com*, 185 F.R.D. 573, 578-80 (N.D. Cal. 1999) (describing the
22 factors courts examine to determine whether good cause exists for early discovery, including “all
23 previous steps taken to locate the elusive defendant”); *Bungie, Inc. v. Thorpe*, No. 21-CV-05677-
24 EMC-DMR, 2021 WL 5178825, at *3 (N.D. Cal. Nov. 8, 2021) (“Generally, ex parte applications
25 for early discovery are accompanied by declarations which explain the party’s efforts to determine
26 the individual’s identity and why the plaintiff believes that subpoenas to particular service
27 providers would yield information regarding a defendant’s identity.” (quotation marks and citation
28 omitted)). Accordingly, the motion for leave to serve a third-party subpoena is denied without

1 prejudice to Plaintiff re-filing the motion and providing supporting evidence in accordance with
2 the Local Rules.

3 **IT IS SO ORDERED.**

4 Dated: July 13, 2023



United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28